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FILED

JAN - 4 2006

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re

MARSHALL MCDANIEL, JR.,

Debtor.

Case No. 05-33491-A-7

Docket Control No. None

Date: Ex Parte

Time: Ex Parte

MEMORANDUM DECISION

The chapter 7 debtor's petition was filed on September 30, 2005. The debtor and the chapter 7 trustee have stipulated to the extension of the deadlines for the trustee to file a complaint under 11 U.S.C. § 727(a) and for the United States Trustee to file a motion to dismiss under 11 U.S.C. § 707(b). The United States Trustee is not a party to the stipulation. The stipulation was filed before the original deadlines expired.

There is a problem with the request to extend the deadline for the United States Trustee to file a dismissal motion pursuant to section 707(b).

Section 707(b) and Fed. R. Bankr. P. 1017(e)(1) provide that a motion to dismiss a petition pursuant to section 707(b) may be brought only by the United States Trustee. Consequently, an extension of the deadline for filing a motion under section 707(b) can be granted only upon a "request by the United States

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1 Trustee." See Fed. R. Bankr. P. 1017(e)(1). A chapter 7 trustee
2 is given no standing either to file a section 707(b) motion or to
3 request an extension of deadline for the United States Trustee to
4 file such a motion.

5 A separate order will be entered granting the trustee an
6 extension to file a complaint pursuant to section 727(b) but
7 denying the requested extension to file a dismissal motion
8 pursuant to section 707(b).

9 Dated: *4 Jan. 2006*

10 By the Court

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13 Michael S. McManus, Chief Judge
14 United States Bankruptcy Court
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CERTIFICATE OF MAILING

I, Susan C. Cox, in the performance of my duties as a
judicial assistant to the Honorable Michael S. McManus, mailed by
ordinary mail to each of the parties named below a true copy of
the attached document.

Office of the US Trustee
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Sacramento, CA 95814

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Orangevale, CA 95662

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Frederick Lucksinger
PO Box 2460
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Dated: January 4, 2006

Susan C. Cox
Susan C. Cox
Judicial Assistant to Judge McManus